IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Income Tax Appeal (L) No.70 of 2003

The Commissioner of Income Tax. ... Appellant
v/s.
M/s.Wockhardt Ltd. ... Respondent

Mr.A.S.Rao for appellant.
Mr.Atul Jasani for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 5th December 2005

P.C. :

1. Heard Mr.Rao in support of this Appeal. Mr.Jasani appears for the respondent. The appellant has raised the following substantial questions of law for our determination:-

" 1. Whether on the facts and in the circumstances of the case, the tribunal was right in law in confirming the order of CIT (A) inter alia that the deduction under section 80I should be allowed on gross total income, without reduction of claim of deduction under section 80HH from gross total income and ignoring provision of section 80HH(9) ?

2. Whether on the facts and in the

circumstances of the case, the tribunal was right in law in upholding the order of CIT (A) inter alia allowing depreciation on I.V. Fluid at Waluj, ignoring the fact that the commercial production had not started during the relevant year ? "

2. As far as the first question pertaining to the claim of deduction under Section 80HH is concerned, the same has been decided in **CIT vs. Nima Specific Family Trust reported in (2001) Vol.248 ITR page 29.**

3. As far the second question with respect to the depreciation on I.V. Fluid in the respondent's factory at Waluj is concerned, there is a finding of fact that during the relevant period, a trial run was being taken and that being so, the depreciation would be allowable. No reason to interfere. Application is dismissed.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)